

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN SENATE JUNE 19, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 361

Introduced by Assembly Member Mitchell

(Principal coauthor: Assembly Member Atkins)

**(~~Coauthor: Coauthors: Assembly Member Members Ammiano and~~
~~Maienschein~~)**

(~~Coauthor: Senator Coauthors: Senators Beall and Monning~~)

February 14, 2013

An act to add Article 3.9 (commencing with Section 14127) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 361, as amended, Mitchell. Medi-Cal: Health Homes for Medi-Cal Enrollees and Section 1115 Waiver Demonstration Populations with Chronic and Complex Conditions.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law authorizes a state, subject to federal approval of a state plan amendment, to offer health

home services, as defined, to eligible individuals with chronic conditions.

This bill would authorize the department, subject to federal approval, to create a health home program for enrollees with chronic conditions, as prescribed, as authorized under federal law. This bill would provide that those provisions shall not be implemented unless federal financial participation is available and additional General Fund moneys are not used to fund the administration and service costs, except as specified. This bill would require the department to ensure that an evaluation of the program is completed, if created by the department, and would require that the department submit a report to the appropriate policy and fiscal committees of the Legislature within 2 years after implementation of the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The Health Homes for Enrollees with Chronic Conditions
4 option (Health Homes option) under Section 2703 of the federal
5 Patient Protection and Affordable Care Act (Affordable Care Act)
6 (42 U.S.C. Sec. 1396w-4) offers an opportunity for California to
7 address chronic and complex health conditions, ~~including social~~
8 *conditions through a “whole person” approach, while achieving*
9 *the “Triple Aim” goals of improved patient care, improved health,*
10 *and reduced per-capita total costs. It is an opportunity to reverse*
11 *determinants that lead to poor health outcomes and high costs*
12 *among Medi-Cal beneficiaries.*

13 (b) For example, people who frequently use hospitals for reasons
14 that could have been avoided with more appropriate care incur
15 high Medi-Cal costs and suffer high rates of early mortality due
16 to the complexity *and severity* of their conditions and, often, their
17 negative social determinants of health. Frequent users have
18 difficulties accessing regular or preventive care and complying
19 with treatment protocols, and the significant number who are
20 homeless have no place to store medications, cannot adhere to a
21 healthy diet or maintain appropriate hygiene, face frequent
22 victimization, and lack rest when recovering from illness. *Frequent*

1 *hospital users who are not homeless survive on extremely low*
2 *incomes and live in communities with limited resources and*
3 *services.*

4 (c) Increasingly, health providers are partnering with community
5 behavioral health and social services providers to offer a
6 person-centered interdisciplinary system of care that effectively
7 addresses the needs of enrollees with multiple chronic or complex
8 conditions, including frequent hospital users and people
9 experiencing chronic homelessness, *in settings where enrollees*
10 *live*. These health homes help people with chronic and complex
11 conditions to access better care and better health, while decreasing
12 costs.

13 (d) Federal guidelines allow the state to access enhanced federal
14 ~~matching rates~~ *financial participation* for health home services
15 under the Health Homes option for multiple target populations to
16 achieve more than one policy goal.

17 SEC. 2. Article 3.9 (commencing with Section 14127) is added
18 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
19 Code, to read:

20
21 Article 3.9. Health Homes for Medi-Cal Enrollees and Section
22 1115 Waiver Demonstration Populations with Chronic and
23 Complex Conditions
24

25 14127. For the purposes of this article, the following definitions
26 shall apply:

27 (a) "Department" means the State Department of Health Care
28 Services.

29 (b) "Federal guidelines" means all federal statutes, and all
30 regulatory and policy guidelines issued by the federal Centers for
31 Medicare and Medicaid Services regarding the Health Homes for
32 Enrollees with Chronic Conditions option under Section 2703 of
33 the federal Patient Protection and Affordable Care Act (Affordable
34 Care Act) (42 U.S.C. Sec. 1396w-4), including the State Medicaid
35 Director Letter issued on November 16, 2010.

36 (c) (1) "Health home" means a provider or team of providers
37 designated by the department that satisfies all of the following:

38 (A) Meets the criteria described in federal guidelines.

(B) Offers a whole person approach, including, but not limited to, coordinating other available services that address needs affecting a participating individual's health.

(C) Offers services in a range of settings, as appropriate, to meet the needs of an individual eligible for health home services.

(2) ~~Health home team members may include a health plan, A lead provider may contract with Medi-Cal providers, including, but not limited to, a managed care health plan, a community clinic, a mental health plan, a hospital, physicians, a clinical practice or clinical group practice, a rural health clinic, a community health center, a community mental health center, substance use disorder treatment professionals, school-based health centers, community health workers, community-based service organizations, promoters, a home health agency, nurse practitioners, physician's assistants, social workers, and other paraprofessionals. Health home teams shall also partner with and provide linkages to housing navigators and housing providers. paraprofessionals, to the extent that contracting with these providers is allowed under federal Medicaid law. Health home providers shall also establish noncontractual relationships with, and provide linkages to, housing providers.~~

(3) For purposes of serving the population identified in subdivision (c) of Section 14127.3, the department may require a lead provider to be a physician, a community clinic, a mental health plan, a community-based nonprofit organization, a county health system, ~~a substance use disorder treatment professional or facility, or a hospital.~~

(4) The department may determine the model of health home it intends to create, including any entity, provider, or group of providers operating as a health team, as a team of health care professionals, or as a designated provider, as those terms are defined in Sections 256a-1 and 1396w-4(h)(5) and (h)(6) of Title 42 of the United States Code, respectively.

(d) *"Health Home Program" means all of the state plan amendments and relevant waivers the department seeks and the federal Centers for Medicine and Medicaid Services approves.*

~~(d)~~

(e) "Homeless" has the same meaning as that term is defined in Section 91.5 of Title 24 of the Code of Federal Regulations. A "chronically homeless individual" means ~~an unaccompanied~~

1 ~~homeless individual with a condition limiting his or her activities~~
2 ~~of daily living who has been continuously homeless for a year or~~
3 ~~more, or has had at least four episodes of homelessness in the past~~
4 ~~three years. a homeless individual with a condition limiting his or~~
5 ~~her activities of daily living who has been continuously homeless~~
6 ~~for a year or more, or had at least four episodes of homelessness~~
7 ~~in the past three years.~~ For purposes of this article, an individual
8 who is currently residing in transitional housing, *as defined in*
9 *Section 50675.2 of the Health and Safety Code*, or who has been
10 residing in permanent supportive housing, *as defined in Section*
11 *50675.14 of the Health and Safety Code*, for less than two years
12 shall be considered a chronically homeless individual if the
13 individual was chronically homeless prior to his or her residence.

14 14127.1. Subject to federal approval, the department may do
15 all of the following to create a California Health Home Program
16 (Health Home Program), as authorized under Section 2703 of the
17 Affordable Care Act:

18 (a) Design, with opportunity for public comment, a program to
19 provide health home services to Medi-Cal beneficiaries and Section
20 1115 waiver demonstration populations with chronic conditions.
21 ~~In designing the Health Home Program, the department shall give~~
22 ~~consideration to ensuring continuity of care and avoiding disruption~~
23 ~~of care among a beneficiary's existing providers.~~

24 (b) Contract with new providers, existing Medi-Cal providers,
25 ~~existing Medi-Cal~~ managed care plans, or counties, or one or more
26 of these entities, to provide health home services, as provided in
27 Section 14128.

28 (c) Submit any necessary applications to the federal Centers for
29 Medicare and Medicaid Services for one or more state plan
30 amendments *and any necessary Section 1115 waiver amendments*
31 to provide health home services to Medi-Cal beneficiaries, to newly
32 eligible Medi-Cal beneficiaries upon Medicaid expansion under
33 the Affordable Care Act, and, if applicable, to Low Income Health
34 Program (LIHP) enrollees in counties with LIHPs willing to match
35 federal funds.

36 (d) Define the populations of eligible individuals.

37 (e) Develop a payment methodology, including, but not limited
38 to, fee-for-service or per member, per month payment structures
39 that may include tiered payment rates that take into account the

1 intensity of services necessary to outreach to, engage, and serve
2 the populations the department identifies.

3 (f) Identify the specific health home services needed for each
4 population targeted in the Health Home Program, consistent with
5 subdivision (b) of Section 14127.2.

6 (g) Submit applications and operate, to the extent permitted by
7 federal law and to the extent federal approval is obtained, more
8 than one health home state plan amendment and any necessary
9 Section 1115 waiver amendments for distinct populations, different
10 providers or contractors, or specific geographic areas.

11 (h) Limit the availability of health home services geographically.
12 14127.2. (a) The department may design one or more state
13 plan amendments and any necessary Section 1115 waiver
14 amendments to provide health home services to children or adults,
15 or both, pursuant to Section 14127.1, and, ~~based on~~ *considering*
16 consultation with stakeholders, shall develop the geographic
17 criteria, beneficiary eligibility criteria, and provider eligibility
18 criteria for each state plan amendment.

19 (b) Subject to federal approval for receipt of the enhanced
20 federal ~~match reimbursement~~, services provided under the Health
21 Home Program established pursuant to this article shall include
22 all of the following:

23 ~~(A)~~
24 (1) Comprehensive and individualized care management.

25 ~~(B)~~
26 (2) Care coordination and health promotion, including
27 connection to medical, mental health, and substance use disorder
28 care.

29 ~~(C)~~
30 (3) Comprehensive transitional care from inpatient to other
31 settings, including appropriate followup.

32 ~~(D)~~
33 (4) Individual and family support, including authorized
34 representatives.

35 ~~(E)~~
36 (5) Referral to relevant community and social services supports,
37 including, but not limited to, connection to housing for participants
38 who are homeless or unstably housed, transportation to
39 appointments needed to manage health needs, healthy lifestyle

1 supports, ~~quality~~ child care when appropriate, and peer recovery
2 support.

3 ~~(F)~~

4 (6) Health information technology to identify eligible individuals
5 and link services, if feasible and appropriate.

6 14127.3. (a) If the department creates a Health Home Program
7 pursuant to this article, the department shall determine whether a
8 health home state plan amendment that targets adults is
9 operationally viable.

10 (b) (1) In determining whether a health home state plan
11 amendment that targets adults is operationally viable, the
12 department shall consider whether a state plan amendment and
13 any necessary Section 1115 waiver amendments could be designed
14 in a manner that minimizes the impact on the General Fund,
15 whether the department has the capacity to administer the ~~home~~
16 ~~health~~ health home state plan amendment through the state, a
17 contracting entity, a county, or regional approach, and whether a
18 sufficient provider network exists for providing health home
19 services to populations the department intends to target, including
20 the populations described in subdivision (c).

21 (2) If the department determines that a health home state plan
22 amendment that targets adults is operationally viable pursuant to
23 paragraph (1), then the department shall design a state plan
24 amendment and any necessary Section 1115 waiver amendments
25 to target and provide health home services to beneficiaries who
26 meet the criteria specified in subdivision (c).

27 (3) (A) If the department determines a health home state plan
28 amendment that targets adults is not operationally viable, then the
29 department shall ~~report to~~ *inform* the appropriate policy and fiscal
30 committees of the ~~Legislature the basis for this determination, as~~
31 ~~well as the service delivery changes needed to improve care among~~
32 ~~chronically homeless beneficiaries and frequent hospital users.~~
33 *Legislature, within 120 days of that determination, about current*
34 *efforts underway by the department that help to address health*
35 *care issues experienced by homeless Medi-Cal beneficiaries.*

36 (B) The requirement for ~~submitting the report informing the~~
37 ~~appropriate policy and fiscal committees of the Legislature under~~
38 subparagraph (A) is inoperative four years after the date the report
39 is due, pursuant to Section 10231.5 of the Government Code.

(c) A state plan amendment and any necessary Section 1115 waiver amendments submitted pursuant to this section shall target adult beneficiaries who meet both of the following criteria:

(1) Have current diagnoses of chronic, physical health, mental health, or substance use disorders prevalent among frequent hospital users.

(2) Have a level of severity in conditions established by the department, based on one or more of the following factors:

(A) Frequent inpatient hospital admissions, including hospitalization for medical, psychiatric, or substance use related conditions.

(B) Excessive use of crisis or emergency services.

(C) Chronic homelessness.

(d) (1) For the purposes of providing health home services to the population identified in subdivision (c), the department shall select health home providers or providers who plan to subcontract with health home team members with all of the following:

(A) Demonstrated experience working with frequent hospital or emergency department users.

(B) Demonstrated experience working with people who are chronically homeless.

(C) The capacity and administrative infrastructure to participate in the Health Home Program, including the ability to meet requirements of federal guidelines.

(D) A viable plan, with roles identified among providers of the health home, to do all of the following:

(i) Reach out to and engage frequent hospital or emergency department users and chronically homeless eligible individuals.

(ii) Link eligible individuals who are homeless or experiencing housing instability to permanent housing, such as supportive housing.

(iii) Ensure coordination and linkages to services needed to access and maintain health stability, including medical, mental health, and substance use care, as well as social services and supports to address social determinants of health.

(2) The department may design additional provider criteria to those identified in paragraph (1) after consultation with stakeholder groups who have expertise in engagement and services for the population identified in subdivision (c).

1 (3) The department may authorize health home providers eligible
2 under this subdivision to serve Medi-Cal enrollees through a
3 fee-for-service or managed care delivery system *that may include*
4 *supplemental payments*, and may allow for county-operated and
5 other public and private providers to participate in this program.

6 (4) If the department designs a state plan amendment designed
7 to serve the population identified in subdivision (c), the department
8 shall design strategies to outreach to, engage, and provide health
9 home services to the population identified in subdivision (c), based
10 on consultation with stakeholders who have expertise in engaging,
11 providing services to, and designing programs addressing the needs
12 of, the population.

13 (5) If the department creates a health home program that targets
14 adults described in subdivision (c), the department may also submit
15 state plan amendments and any necessary waiver amendments
16 targeting other adult populations.

17 14127.4. (a) The department shall administer this article in a
18 manner that attempts to maximize federal financial participation,
19 consistent with federal law.

20 (b) Except as provided in Section 14127.6, the nonfederal share
21 shall be provided by funds from local governments, private
22 foundations, or any other source permitted under *state and federal*
23 *law, including Section 1903(a) of the federal Social Security Act*
24 *(42 U.S.C. Sec. 1396b(a)) and Section 433.51 of Title 42 of the*
25 *Code of Federal Regulations, and may be used for administration,*
26 *service delivery, evaluation, and design of the Health Home*
27 *Program.* The department, or counties contracting with the
28 department, may also enter into risk-sharing and social impact
29 bond program agreements to fund services under this article.

30 14127.5. (a) If the department creates a Health Home Program,
31 the department shall ensure that an evaluation of the program is
32 completed and shall, within two years after implementation, submit
33 a report to the appropriate policy and fiscal committees of the
34 Legislature. *Stakeholders, including philanthropy, nonprofit*
35 *organizations, and patient advocates, may participate in the*
36 *department's evaluation design.*

37 (b) The requirement for submitting the report under subdivision
38 (a) is inoperative four years after the date the report is due, pursuant
39 to Section 10231.5 of the Government Code.

1 14127.6. (a) ~~The department shall fund health home services~~
2 *The Health Home Program shall be implemented* only if and to
3 the extent federal financial participation is available and the federal
4 Centers for Medicare and Medicaid Services approves any state
5 plan amendments *and any necessary waivers* sought pursuant to
6 this article.

7 (b) Except as provided in subdivision (c), this article shall be
8 implemented only if no additional General Fund moneys are used
9 to fund the administration and costs of services.

10 (c) Notwithstanding subdivision (b), if the department projects,
11 based on analysis of current and projected expenditures for health
12 home services prior to, during, or after the first eight quarters of
13 implementation, that this article can be implemented in a manner
14 that does not or will not result in a net increase in ongoing General
15 Fund costs for the Medi-Cal program, the department may use
16 state funds to fund any Health Home Program costs.

17 (d) The department may use new funding in the form of
18 enhanced federal financial participation for health home services
19 that are currently ~~funded~~ *provided* to fund additional costs for new
20 Health Home Program services.

21 (e) The department shall seek to fund the creation,
22 implementation, and administration of the program with funding
23 other than state general funds.

24 (f) The department may revise or terminate the Health Home
25 Program any time after the first eight quarters of implementation
26 if the department finds that the program fails to result in reduced
27 inpatient stays, hospital admission rates, and emergency department
28 visits, or results in substantial General Fund expense without
29 commensurate decreases in Medi-Cal costs among program
30 participants.

31 14128. (a) In the event of a judicial challenge of the provisions
32 of this article, this article shall not be construed to create an
33 obligation on the part of the state to fund any payment from state
34 funds due to the absence or shortfall of federal funding.

35 (b) For the purposes of implementing this article, the department
36 may enter into exclusive or nonexclusive contracts on a bid or
37 negotiated basis, and may amend existing managed care contracts
38 to provide or arrange for services under this article. Contracts may
39 be statewide or on a more limited geographic basis. Contracts
40 entered into or amended under this section shall be exempt from

1 the provisions of Chapter 2 (commencing with Section 10290) of
2 Part 2 of Division 2 of the Public Contract Code and Chapter 6
3 (commencing with Section 14825) of Part 5.5 of Division 3 of the
4 Government Code, and shall be exempt from the review or
5 approval of any division of the Department of General Services.

6 (c) (1) Notwithstanding Chapter 3.5 (commencing with Section
7 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
8 the department may implement, interpret, or make specific the
9 process set forth in this article by means of all-county letters, plan
10 letters, plan or provider bulletins, or similar instructions, without
11 taking regulatory action, until such time as regulations are adopted.
12 It is the intent of the Legislature that the department be provided
13 temporary authority as necessary to implement program changes
14 until completion of the regulatory process.

15 (2) The department shall adopt emergency regulations no later
16 than two years after implementation of this article. The department
17 may readopt, up to two times, any emergency regulation authorized
18 by this section that is the same as or substantially equivalent to an
19 emergency regulation previously adopted pursuant to this section.

20 (3) The initial adoption of emergency regulations implementing
21 this article and the readoptions of emergency regulations authorized
22 by this section shall be deemed an emergency and necessary for
23 the immediate preservation of the public peace, health, safety, or
24 general welfare. Initial emergency regulations and readoptions
25 authorized by this section shall be exempt from review by the
26 Office of Administrative Law. The initial emergency regulations
27 and readoptions authorized by this section shall be submitted to
28 the Office of Administrative Law for filing with the Secretary of
29 State and shall remain in effect for no more than 180 days, by
30 which time final regulations may be adopted.